



# भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bill was introduced in Lok Sabha on the 18th August, 1989:—

BILL NO. 66 OF 1989

*A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.*

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Direct Tax Laws (Second Amendment) Act, 1989.

Short title and commencement.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1990.

### CHAPTER II

#### AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In section 2 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),—

Amendment of section 2.

(i) for clause (39), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day

~~STATUTE BOOK AND LEGISLATION~~

of April, 1989, namely:—

‘(39) “registered firm” means a firm registered under the provisions of clause (a) of sub-section (1) of section 185 or deemed to be registered under the provisions of sub-section (6) of that ~~section or under those~~ provisions read with sub-section (7) of ~~section 184;~~’;

(ii) after clause (42B), the following clause shall be inserted, namely:—

‘(42C) “security” means a Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944;’.

18 of 1944

Amend-  
ment of  
section 6.

3. In section 6 of the Income-tax Act, in clause (1), in sub-clause (c) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—in the case of an individual,—

(a) being a citizen of India, who leaves India in any previous year for the purposes of employment outside India, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and eighty-two days” had been substituted;

(b) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (e) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and fifty days” had been substituted.’.

Amend-  
ment of  
section 10.

4. In section 10 of the Income-tax Act,—

(a) for clause (5), the following clause shall be substituted and ~~shall be deemed to have been~~ substituted with effect from the 1st day of April, 1989, namely:—

‘(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

(a) from his employer for himself and his family, in ~~connection with his proceeding~~ on leave to any place in India;

(b) from his employer or former employer for himself ~~and his family, in connection with his proceeding to~~ any place in India after retirement from service or after the termination of his service,

subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government:

Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

*Explanation.*—For the purposes of this clause, “family”, in relation to an individual, means—

- (i) the spouse and children of the individual; and
- (ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual;

(b) in clause (14), to sub-clause (ii), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1989, namely:—

“Provided that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence.”.

5. After section 33AB of the Income-tax Act, the following section shall be inserted, namely:—

Insertion  
of new  
section  
33AC.

‘33AC. (1) In the case of an assessee, being a public company formed and registered in India with the main object of carrying on the business of operation of ships, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount, not exceeding the total income (computed before making any deduction under this section and Chapter VI-A), as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised in the manner laid down in sub-section (2):

Reserves  
for  
Shipping  
business.

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid-up share capital (excluding the amounts capitalised from reserves) of the assessee, no allowance under this sub-section shall be made in respect of such excess.

(2) The amount credited to the reserve account under sub-section (1) shall be utilised by the assessee before the expiry of a period of eight years next following the previous year in which the amount was credited—

(a) for acquiring a new ship for the purposes of the business of the assessee; and

(b) until the acquisition of a new ship, for the purposes of the business of the assessee other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(3) Where any amount credited to the reserve account under sub-section (1),—

(a) has been utilised for any purpose other than that referred to in clause (a) or clause (b) of sub-section (2), the amount so utilised; or

(b) has not been utilised for the purpose specified in clause (a) of sub-section (2), the amount not so utilised; or

(c) has been utilised for the purpose of acquiring a new ship as specified in clause (a) of sub-section (2), but such ship is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, the amount so utilised in acquiring the ship,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of eight years specified in clause (a) of sub-section (2); or

(iii) in a case referred to in clause (c), in the year in which the sale or transfer took place,

and shall be charged to tax accordingly.

*Explanation.*—For the purposes of this section,—

(a) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956;

(b) "new ship" shall have the same meaning as in clause (ii) of sub-section (2) of section 32AB.

Amend.  
ment of  
section 48.

6. In section 48 of the Income-tax Act, in sub-section (1), to clause (a), the following proviso and the *Explanation* thereto shall be added, namely:—

'Provided that in the case of an assessee, who is a non-resident Indian, capital gains arising from the transfer of a capital asset being shares in an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every re-investment thereafter in, and sale of shares in an Indian company.

*Explanation.*—For the purposes of this clause,—

(i) "non-resident Indian" shall have the same meaning as in clause (e) of section 115C;

(ii) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973;

(iii) the conversion of Indian currency into foreign currency and the reversion of foreign currency into Indian

currency shall be at the rate of exchange prescribed in this behalf.

7. In section 80C of the Income-tax Act,—

Amend-  
ment of  
section  
80 C.

(a) in sub-section (2),—

(i) in clause (a),—

(A) in sub-clause (ii), after the words “deferred annuity”, the words, brackets, figures and letters “, not being an annuity plan referred to in clause (ii) of sub-section (1) of section 80CCA,” shall be inserted;

(B) in sub-clause (v),—

(1) the brackets and words “(hereafter in this section referred to as the Unit-linked Insurance Plan)” shall be omitted;

(2) the word “or” shall be inserted at the end;

(C) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) as a contribution for participation in any such unit-linked insurance plan of the Life Insurance Corporation Mutual Fund notified under clause (23D) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(ii) in clause (h), after sub-clause (ia) [as inserted by the Finance Act, 1989], the following sub-clause shall be inserted, namely:—

“(ib) as subscription to any such savings certificate as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959, as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(iii) in clauses (g) and (h), for the words “Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu”, wherever they occur, the words “State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu” shall be substituted;

(iv) after clause (h), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

“(i) where the assessee is an individual or a Hindu undivided family or where the assessee is an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, any sums paid in the previous year by such assessee out of his or its income chargeable to tax as subscription to the National Savings Certificates (VI Issue) and National

13 of 1989.

46 of 1959.



Savings Certificates (VII Issue) issued under the Government Savings Certificates Act, 1959;”;

46 of 1959.

(b) in sub-section (5),—

(i) for the words “the Unit-linked Insurance Plan” the words, brackets, figures and letters “any unit-linked insurance plan referred to in sub-clause (v) or sub-clause (vi) of clause (a) of sub-section (2)” shall be substituted;

(ii) for the words “participating in the plan, terminates his participation in the plan”, the words “participating in any such plan, terminates his participation in that plan” shall be substituted;

(c) in sub-section (6), in Explanation 2, for the words “the Unit-linked Insurance Plan”, the words, brackets, figures and letters “any unit-linked insurance plan referred to in sub-clause (v) or sub-clause (vi) of clause (a) of sub-section (2)” shall be substituted.

Amendment of section 80CC.

8. In section 80CC of the Income-tax Act, in sub-section (3),—

(i) in clause (a),—

(a) in sub-clause (iii), for the word “authority”, the words “authority; or” shall be substituted;

(b) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) operation of ships;”;

(ii) to clause (b) the following proviso shall be added, namely:—

“Provided that this clause shall not apply in the case of an issue of equity shares made by a public company formed and registered in India with the main object of carrying on the business of operation of ships;”.

Amendment of section 80L.

9. In section 80L of the Income-tax Act, in sub-section (1), after clause (i), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

“(ia) interest on National Savings Certificates (VI Issue) and National Savings Certificates (VII Issue) issued under the Government Savings Certificates Act, 1959;”.

46 of 1959.

Insertion of new section 115BBA.

10. After section 115BB of the Income-tax Act, the following section shall be inserted, namely:—

“115BBA. (1) Where the total income of an assessee,—

(a) being a sportsman (including an athlete), who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(i) participation in India in any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport; or

Tax on non-resident sportsmen or sports associations.

(ii) advertisement; or

(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(b) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport played in India.

the income-tax payable by the assessee shall be the aggregate of—

(i) the amount of income-tax calculated on income referred to in clause (a) or clause (b) at the rate of ten per cent.; and

(ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income referred to in clause (a) or clause (b).

(2) It shall not be necessary for the assessee to furnish under sub-section (1) of section 139 a return of his income if—

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clause (a) or clause (b) of sub-section (1); and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.”

11. In section 115D of the Income-tax Act, in sub-section (2), in clause (a), for the words, figures and letter “under Chapter VI-A”, the words, brackets, figures and letters “under sub-section (2) of section 48 or under Chapter VI-A” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

Amend-  
ment of  
section  
115D.

12. In section 115J of the Income-tax Act, in the *Explanation*,—

(i) in clause (b), after the words, figures and letters “reserves specified in section 80HHD”, the words, brackets, figures and letters “or sub-section (1) of section 33AC” shall be inserted;

Amend-  
ment of  
section  
115 J.

(ii) after clause (h), the following clause shall be inserted, namely:—

“(ha) the amount deemed to be the profits under sub-section (3) of section 33AC;”.

13. In section 139 of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (b), in sub-clause (i), after the words “to be audited”, the words “or in the case of a partner of a firm where the accounts of the firm are required to be so audited” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amend-  
ment of  
section  
139.

14. In section 140A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amend-  
ment of  
section  
140A.

“(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assess-

ment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Amend-  
ment of  
section  
142.

15. In section 142 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

4 of 1988.

Amend-  
ment of  
section  
143.

16. In section 143 of the Income-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments:”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) of this section or section 144 or” shall be inserted;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(c) Where the assessee is a partner of a firm or a member of an association of persons or body of individuals and as a result of the adjustments made under the first proviso to clause (a) of sub-section (1) in the income or loss declared in the return made by the firm, association or body, as the case may be, or as a result of an order made under sub-section (3) of this section or section 144 or section 147 or section 154 or section 155 or sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 185 or sub-section (1) or sub-section (2) of section 186 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264,



or any order of settlement made under sub-section (4) of section 245D, passed subsequent to the filing of the return referred to in clause (a), there is any variation in his share in the income or loss of the firm, association or body, as the case may be, or in the manner of inclusion of his share in the returned income, then,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly, and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such adjustments were made or any such order was passed.”;

(b) in sub-section (1A),—

(i) in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(ii) in the *Explanation*, in clause (i), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “In a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve on the assessee”, the words “serve on the assessee” shall be substituted;

(d) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Where a regular assessment under sub-section (3) of this section or section 144 is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly,

(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

4 of 1988.

Amend-  
ment of  
section  
144.

17. Section 144 of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

"(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

4 of 1988.

Amend-  
ment of  
section  
149.

18. In section 149 of the Income-tax Act, in sub-section (1), in clause (a), in sub-clause (iii), for the words "more than rupees one lakh", the words "rupees one lakh" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989.

Amend-  
ment of  
section  
184.

19. In section 184 of the Income-tax Act, in sub-section (7), after the words "is granted", the words "or is deemed to have been granted" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amend-  
ment of  
section  
185.

20. In section 185 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

"(6) Notwithstanding anything contained in sub-sections (1) to (4), where a firm has made an application for registration in relation to an assessment year and has furnished the return for that assessment year, such firm shall be deemed to have been registered under this section on the expiry of the period for serving notice as specified in the proviso to sub-section (2) of section 143 in respect of such return:

Provided that nothing in this sub-section shall affect the power of the Assessing Officer to intimate the defect to the firm under sub-section (2) and where any such intimation is sent, all the provisions of sub-section (2) shall apply.

(7) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Second Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the

other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

21. In section 186 of the Income-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

Amendment of section 186.

(a) in sub-section (1),—

(i) after the words “firm has been registered”, the words “or is deemed to have been registered” shall be inserted;

(ii) the words “and with the previous approval of the Deputy Commissioner,” shall be omitted;

(iii) in the proviso, after the words “registration has been granted”, the words “or is deemed to have been granted” shall be inserted;

(iv) after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that the Assessing Officer shall not cancel the registration granted under sub-section (1) of section 185 except with the previous approval of the Deputy Commissioner.”;

(b) in sub-section (2), after the words “firm has been registered”, the words “or is deemed to have been registered” shall be inserted.

22. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of September, 1989, namely:—

Insertion of new section 194E.

“194E. Where any income referred to in section 115BBA is payable to a non-resident sportsman or sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.”.

Payments to non-resident sportsmen or sports associations.

23. In section 195 of the Income-tax Act, in sub-section (1), before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1987, namely:—

Amendment of section 195.

“Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode.”.

Amend-  
ment of  
sections  
198 to 200  
and 202 to  
205.

24. In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the word, figures and letter "section 194D," the word, figures and letter "section 194E," shall be inserted with effect from the 1st day of September, 1989.

Substitu-  
tion  
of new  
section for  
section  
241.

25. For section 241 of the Income-tax Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

Power to  
withhold  
refund  
in certain  
cases.

"241. Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 143 after a return has been made under section 139 or in response to a notice under sub-section (1) of section 142 and the Assessing Officer is of the opinion, having regard to the fact that—

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 143 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending,

that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine."

Amend-  
ment of  
section  
275.

26. Section 275 of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

"(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989."

4 of 1988.

## CHAPTER III

### AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amend-  
ment of  
section  
15B.

27. In section 15B of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

27 of 1957.

"(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

4 of 1988.

28. In section 16 of the Wealth-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1939, namely:—

Amend-  
ment of  
section 16.

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments.”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) or sub-section (5) of this section or” shall be inserted;

(b) in sub-section (1A), in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “In a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 14 or section 15, or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve on the assessee”, the words “serve on the assessee” shall be substituted;

(d) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) Where a regular assessment under sub-section (3) or sub-section (5) is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(7) The provision of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment)



Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions for the time being in force and applicable to the relevant assessment year.”.

Amend-  
ment of  
section  
34A.

29. In section 34A of the Wealth-tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

“(2) Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 16 after a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4) of section 16 and the Assessing Officer is of the opinion, having regard to the fact that—

(i) a notice has been issued, or, is likely to be issued, under sub-section (2) of section 16 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending,

that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine.”.

Amend-  
ment of  
Schedule  
III.

30. In Schedule III to the Wealth-tax Act,—

(a) after rule 9, the following rule shall be inserted, namely:—

Special  
provision  
for quoted  
shares of  
companies.

9A. Notwithstanding anything in rule 9, the value of an equity share in any company which is a quoted share may, at the option of the assessee, be taken on the basis of the average of the value quoted on the 31st day of March immediately preceding the assessment year and the values quoted in respect of such share on the said dates in relation to each of the immediately preceding four assessment years, or where there is no such quotation taken on any of the aforesaid dates, the quotation on the date closest to the said date and immediately preceding such date:

Provided that where for any reason the value of such share is quoted in relation to lesser number of assessment years than the said four assessment years, then the value or values so quoted shall be taken into account for the purposes of the aforesaid average:

Provided further that where the assessee opts for the average of the values so quoted, he shall get such values certified by an accountant and attach the certificate to the return of wealth in respect of the relevant assessment year.

*Explanation.*—For the purposes of this rule, “accountant” shall have the same meaning as in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act.”;

(b) in rule 12, sub-rules (3) and (5) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

#### CHAPTER IV

##### AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

31. In section 14B of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amendment of section 14B.

“(4) The provisions of this section shall apply in respect of assessment for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.”.

32. In section 15 of the Gift-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

Amendment of section 15.

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments.”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) or sub-section (5) of this section or” shall be inserted;

(b) in sub-section (1A), in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “in a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve on the assessee”, the words “serve on the assessee” shall be substituted;

(d) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(7) Where a regular assessment under sub-section (3) or sub-section (5) is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(8) The provisions of this section, except those of sub-section (6), as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

4 of 1988.

Amend-  
ment of  
section  
33A.

33. In section 33A of the Gift-tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

“(2) Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 15 after a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4) of section 15 and the Assessing Officer is of the opinion, having regard to the fact that,—

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 15 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending,

that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine.”.

### STATEMENT OF OBJECTS AND REASONS

Amendments in tax laws is an on-going process because the tax laws are no longer mere instruments of tax collection but are intended to achieve various other socio-economic objectives. Since the passing of the Direct Tax Laws (Amendment) Act, 1989 and the presentation of the Finance Bill, 1989, a number of suggestions regarding simplification and rationalisation of the Act as also for giving certain tax concessions for the benefit of the taxpayers, were received by the Government. The prime urgency for the introduction of this Bill is to help the taxpayers by removing certain anomalies and difficulties relating to the new assessment procedure which has already come into force from 1st April, 1989 as also to grant certain tax concessions so that the taxpayers can avail of them during the current financial year.

2. One of the prime needs of the country is to ensure proper balance of payment and encourage inflow of foreign exchange in the country. With a view to achieve this, it is proposed to amend section 48 of the Income-tax Act in order to provide for computation of the capital gains in the case of non-resident Indians by calculating the cost price and the sale price in the foreign currency in which the investment was made instead of taking the value in Indian currency as at present. This will make investments in shares by non-resident Indians more attractive and thereby encourage inflow of foreign exchange in the country.

3. Section 6 of the Act is also being amended with the same objective. It will liberalise the criterion for determining the residential status so as to facilitate non-resident Indians to stay in India for a longer period in order to look after their investments without losing their 'non-resident' status. Besides, section 195 of the Act is also proposed to be amended to provide for deduction of tax at source on payment of interest to non-residents by the Government, public sector banks and public financial institutions only at the time of payment instead of at the time of credit of such income.

4. Development of shipping industry is extremely important for our country. This is a capital-intensive industry and faces considerable competition from foreign shipping lines. Therefore, it needs Government assistance for further promotion in the shape of incentives under the tax system. Such concessions would help the industry to augment its fleet and make investments in their shares attractive. To achieve this, necessary amendments have been proposed in the Income-tax Act by inserting a new section 33AC for providing benefits on the same lines as are available under section 36(1) (viii) of the Income-tax Act, in the case of shipping companies also. Further, section 80CC, which permits 50 per cent. deduction for the cost of acquisition of shares forming part of the eligible issue of capital from the total income, is proposed to be extended to the issue of share capital by existing shipping companies also.

5. During the debate on the Finance Bill, 1989, a statement was made on behalf of the Government that the present method of valuation

of unquoted equity shares in the case of investment companies, which is causing hardship, would be examined and appropriate action would be taken to remove the hardship. Accordingly, Schedule III of the Wealth-tax Act dealing with such matters is proposed to be amended.

6. In addition, it is also proposed, *inter alia*, to:

(i) provide for taxation of the income earned in India by non-resident sportsmen and sports associations at a concessional tax rate of 10 per cent.;

(ii) extend tax concessions under section 80C in respect of such Unit-linked Insurance Plan of the Life Insurance Corporation Mutual Fund as may be notified by the Central Government in this behalf;

(iii) provide concession under section 80C in respect of such savings certificates issued under the Government Savings Certificates Act, 1959, as may be notified by the Central Government in this behalf; and

(iv) provide for valuation of quoted shares for wealth-tax purposes by taking average of the five-years' quoted price.

7. Opportunity is also being availed of to remove certain anomalies and difficulties relating to the assessment procedure by providing amendments in the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax, Act, 1958.

8. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

S. B. CHAVAN.

The 15th August, 1989.

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PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274  
OF THE CONSTITUTION OF INDIA

[Copy of letter dated the 16th August, 1989 from Shri S. B. Chavan, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Direct Tax Laws (Second Amendment) Bill, 1989, recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution the introduction of the Bill in Lok Sabha.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to substitute clause (5) of section 10 of the Income-tax Act relating to exemption of value of leave travel concession. The said exemption will be subject to conditions to be prescribed by the Central Board of Direct Taxes, having regard to certain factors, by rules made in that behalf.

2. Clause 6 of the Bill seeks to insert a proviso to clause (a) of sub-section (1) of section 48 of the Income-tax Act. Clause (iii) of the *Explanation* to the said proviso empowers the Central Board of Direct Taxes to make rules for prescribing rates of exchange for conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency.

3. The matters in respect of which rules will be made by the Central Board of Direct Taxes are matters of administrative detail and it is not practicable to specify the same in the relevant sections. The delegation of legislative power is, therefore, of a normal character.

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SUBHASH C. KASHYAP,  
*Secretary-General.*

